

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT**

**MUR:** 7356

**Respondents:** Time Warner,  
Manhattan Neighborhood  
Network,  
City of New York

**Complaint Receipt Date:** March 28, 2018

**Response Date:** June 8, 2018<sup>1</sup>

**EPS Rating:**

**Alleged Statutory**

**52 U.S.C. § 30101(9)(B)(i)**

**Regulatory Violations:**

**11 C.F.R. § 100.73**

The Complaint alleges that Time Warner, Manhattan Neighborhood Network, and the City of New York provided a prohibited contribution by broadcasting a 12-hour get-out-the-vote marathon on November 8, 2016, which supported Hillary Clinton for President.<sup>2</sup> Manhattan Neighborhood Network responds that its actions are shielded by the media exemption, as it is not owned or controlled by a candidate, political committee, or political party and it operates the public access channels in Manhattan.<sup>3</sup>

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in

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<sup>1</sup> No response was received from Time Warner or the City of New York.

<sup>2</sup> The Complaint also contains a number of allegations outside of the Commission's jurisdiction, which are not addressed here.

<sup>3</sup> Manhattan Neighborhood Network also asserts that the news program did not contain an appeal to vote for or against a specific candidate, and that the only mention of any candidate was a prediction that Clinton won.

potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the fact that the media exemption appears to cover Respondents' activity, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

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2.27.19  
Date

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